

HOUSE BILL NO. 648

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Counties, Cities and Towns

on _____)

(Patron Prior to Substitute--Delegate Kory)

A BILL to amend and reenact § 15.2-2232 of the Code of Virginia, relating to comprehensive plan; public hearing.

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-2232 of the Code of Virginia is amended and reenacted as follows:

§ 15.2-2232. Legal status of plan.

A. Whenever a local planning commission recommends a comprehensive plan or part thereof for the locality and such plan has been approved and adopted by the governing body, it shall control the general or approximate location, character and extent of each feature shown on the plan. Thereafter, unless a feature is already shown on the adopted master plan or part thereof or is deemed so under subsection D, no street or connection to an existing street, park or other public area, public building or public structure, public utility facility or public service corporation facility other than a railroad facility or an underground natural gas or underground electric distribution facility of a public utility as defined in subdivision (b) of § 56-265.1 within its certificated service territory, whether publicly or privately owned, shall be constructed, established or authorized, unless and until the general location or approximate location, character, and extent thereof has been submitted to and approved by the commission as being substantially in accord with the adopted comprehensive plan or part thereof. In connection with any such determination, the commission may, and at the direction of the governing body shall, hold a public hearing, after notice as required by § 15.2-2204. Following the adoption of the Statewide Transportation Plan by the Commonwealth Transportation Board pursuant to § 33.2-353 and written notification to the affected local governments, each local government through which one or more of the designated corridors of statewide significance traverses, shall, at a minimum, note such corridor or corridors on the transportation plan map

27 included in its comprehensive plan for information purposes at the next regular update of the transportation
28 plan map. Prior to the next regular update of the transportation plan map, the local government shall
29 acknowledge the existence of corridors of statewide significance within its boundaries.

30 B. The commission shall communicate its findings to the governing body, indicating its approval
31 or disapproval with written reasons therefor. The governing body may overrule the action of the
32 commission by a vote of a majority of its membership. Failure of the commission to act within 60 days of
33 a submission, unless the time is extended by the governing body, shall be deemed approval. The owner or
34 owners or their agents may appeal the decision of the commission to the governing body within 10 days
35 after the decision of the commission. The appeal shall be by written petition to the governing body setting
36 forth the reasons for the appeal. The appeal shall be heard and determined within 60 days from its filing.
37 A majority vote of the governing body shall overrule the commission.

38 C. Widening, narrowing, extension, enlargement, vacation or change of use of streets or public
39 areas shall likewise be submitted for approval, but paving, repair, reconstruction, improvement, drainage
40 or similar work and normal service extensions of public utilities or public service corporations shall not
41 require approval unless such work involves a change in location or extent of a street or public area.

42 D. Any public area, facility, park or use as set forth in subsection A which is identified within, but
43 not the entire subject of, a submission under either § 15.2-2258 for subdivision or subdivision A 8 of §
44 15.2-2286 for development or both may be deemed a feature already shown on the adopted master plan,
45 and, therefore, excepted from the requirement for submittal to and approval by the commission or the
46 governing body; provided, that the governing body has by ordinance or resolution defined standards
47 governing the construction, establishment or authorization of such public area, facility, park or use or has
48 approved it through acceptance of a proffer made pursuant to § 15.2-2303.

49 E. Approval and funding of a public telecommunications facility on or before July 1, 2012, by the
50 Virginia Public Broadcasting Board pursuant to Article 12 (§ 2.2-2426 et seq.) of Chapter 24 of Title 2.2
51 or after July 1, 2012, by the Board of Education pursuant to § 22.1-20.1 shall be deemed to satisfy the
52 requirements of this section and local zoning ordinances with respect to such facility with the exception
53 of television and radio towers and structures not necessary to house electronic apparatus. The exemption

54 provided for in this subsection shall not apply to facilities existing or approved by the Virginia Public
55 Telecommunications Board prior to July 1, 1990. The Board of Education shall notify the governing body
56 of the locality in advance of any meeting where approval of any such facility shall be acted upon.

57 F. On any application for a telecommunications facility, the commission's decision shall comply
58 with the requirements of the Federal Telecommunications Act of 1996. Failure of the commission to act
59 on any such application for a telecommunications facility under subsection A submitted on or after July
60 1, 1998, within 90 days of such submission shall be deemed approval of the application by the commission
61 unless the governing body has authorized an extension of time for consideration or the applicant has agreed
62 to an extension of time. The governing body may extend the time required for action by the local
63 commission by no more than 60 additional days. If the commission has not acted on the application by
64 the end of the extension, or by the end of such longer period as may be agreed to by the applicant, the
65 application is deemed approved by the commission.

66 G. A proposed telecommunications tower or a facility constructed by an entity organized pursuant
67 to Chapter 9.1 (§ 56-231.15 et seq.) of Title 56 shall be deemed to be substantially in accord with the
68 comprehensive plan and commission approval shall not be required if the proposed telecommunications
69 tower or facility is located in a zoning district that allows such telecommunications towers or facilities by
70 right.

71 H. A solar facility subject to subsection A shall be deemed to be substantially in accord with the
72 comprehensive plan if (i) such proposed solar facility is located in a zoning district that allows such solar
73 facilities by right; (ii) such proposed solar facility is designed to serve the electricity or thermal needs of
74 the property upon which such facility is located, or will be owned or operated by an eligible customer-
75 generator or eligible agricultural customer-generator under § 56-594 or 56-594.01 or by a small
76 agricultural generator under § 56-594.2; or (iii) the locality waives the requirement that solar facilities be
77 reviewed for substantial accord with the comprehensive plan. All other solar facilities shall be reviewed
78 for substantial accord with the comprehensive plan in accordance with this section. However, a locality
79 may allow for a substantial accord review for such solar facilities to be advertised and approved
80 concurrently in a public hearing process with a rezoning, special exception, or other approval process.

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